IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1) FAO No. 5194 of 2005 (O&M)
Date of decision : 6.11.2006

United India Insurance Company Limited

....Appellant

Versus

Lajwanti & others

...Respondents

2) FAO No. 1394 of 2006 (O&M)
Date of decision : 6.11.2006

Kamal Kumar

....Appellant

Versus

Lajwanti and others

...Respondents

3) FAO No. 5289 of 2005
Date of decision : 6.11.2006

Lajwanti & others

....Appellants

Versus

Kamal Kumar & others

...Respondents

CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE MAHESH GROVER

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Present : Mr.Sanjiv Pabbi, Advocate for the appellant
in FAO No.5194 of 2005.

Mr. S.S.Garg, Advocate for the appellant in
FAO No.1394 of 2006.

Mr. H.P.Verma, Advocate for the appellants in
FAO No.5289 of 2005.

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MAHESH GROVER, J.(Oral)

These three appeals are being disposed of by this common order as they are governed by the same set of facts and have arisen from the same accident inviting the award of the Motor Accident Claims Tribunal, Sirsa dated 2.8.2005 in Claim Petition No.32-MACT of 2003/2004.

On 19.3.2002 an accident is alleged to have taken place which resulted in the death of one Inderjit alias Inder Mahipal. The deceased along with one Ashok Kumar were returning from Suratgarh in jeep bearing registration No.HR-10/0678 when the tyre of the vehicle burst as a result of which it fell into the ditches resulting in the ultimate death of said Inderjit alias Inder Mahipal, a young man of 32 years. The claim petition was preferred by his mother Lajwanti, his widow Kavita Rani and two minor children. The deceased was a market supervisor with a firm at Sirsa and was drawing a salary of Rs.5,700/- per month. The Tribunal awarded a sum of Rs.4,09,500/- to the claimants and apportioned the same amongst the claimants in the following manner :

Smt. Lajwanti	Rs.1,00,000/-
Smt. Kavita Rani	Rs.1,09,500/-+ interest
Nandni	Rs.1,00,000/-
Vishu	Rs.1,00,000/-

While determining the compensation aforesaid the Tribunal also recorded a finding that the driving licence held by the deceased Inderjit alias Inder Mahipal was not valid on the date of accident having achieved its date of expiry and consequently the owner of the vehicle namely Kamal Kumar and the appellant United India Insurance Company were held jointly and severally liable to pay the compensation even though the insurance company was held liable to satisfy the award in the first instance with the rights of recovery from the owner of the jeep Kamal Kumar who incidently is also the father of the deceased.

It was contended by the learned counsel for the appellant insurance company that the liability to pay the amount of compensation upon the appellant company has been wrongly fastened in view of the categoric finding recorded by the Tribunal on the issue of the validity of the driving licence.

We have heard the learned counsel for the appellants and have thoughtfully considered the submission.

The contention of the learned counsel for the appellant insurance company is misplaced. The Hon'ble Supreme Court in **National Insurance Company Limited v. Swaran Singh and others** 2004(1) Accident and Compensation Cases 1 has held that it is the insurance company which is to satisfy the award in the first instance even though it may recover the same from the owner of the vehicle. We have also scanned the award in order to see if the case is covered under the proviso to section 15 (1) of the Motor Vehicles Act, 1988 which reads as under :-

"**15. Renewal of driving licences. --** (1) Any licensing authority may, on application made to it, renew a driving licence issued under the provisions of this Act with effect from the date of its expiry:

Provided that in any case where the application for the renewal of a licence is made more than thirty days after the date of its expiry, the driving licence shall be renewed with effect from the date of its renewal:"

There is, however, no evidence which could have led us to hold that the renewal of the licence was covered by the aforesaid proviso.

In view of the above, there is no infirmity in the findings recorded by the Tribunal.

For the reasons recorded above, there is no reason to interfere in the award of the Tribunal and FAO Nos.5195 of 2005 and 1394 of 2006 being devoid of any merit are dismissed.

The third appeal bearing FAO No.5289 of 2005, preferred by the claimants, has necessarily to be dismissed in view of the findings recorded above as in the eventuality of the appeal being allowed, the sum would have to be recovered ultimately from the father of the deceased.

(MAHESH GROVER)
JUDGE

6.11.2006

(UMA NATH SINGH)
JUDGE

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